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increase in value of the land as unreclaimed. If the updated appraised value results in lower increase in value, such increase shall be used as a basis for the lien. However, an increase in value resulting from the updated appraisal shall not be considered in determining a lien. OSM shall provide appraisal standards for Federal projects, and the State or Indian tribes shall provide appraisal standards for State or Indian tribal projects consistent with generally acceptable appraisal practice.

§ 882.13 Liens.

(a) OSM, State, or Indian tribe has the discretionary authority to place or waive a lien against land reclaimed if the reclamation results in a significant increase in the fair market value; except that—

(1) A lien shall not be placed against the property of a surface owner who acquired title prior to May 2, 1977, and who did not consent to, participate in, or exercise control over the mining operation which necessitated the reclamation work.

(2) The basis for making a determination of what constitutes a significant increase in market value or what factual situation constitutes a waiver of lien will be made by OSM, State, or Indian tribe pursuant to the Congressional intent expressed in Section 408 of the Act and consistent with State or Indian tribal laws governing liens.

(3) A lien may be waived if findings made prior to construction indicate that the reclamation work to be performed on private land shall primarily benefit the health, safety, or environmental values of the greater community or area in which the land is located; or if the reclamation is necessitated by an unforeseen occurrence, and the work performed to restore that land will not result in a significant increase in the market value of the land as it existed immediately before the unforeseen occurrence; and

(4) OSM, State, or Indian tribe may waive the lien if the cost of filing it, including indirect costs to OSM, State, or Indian tribe, exceeds the increase in fair market value as a result of reclamation activities.

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(b) If a lien is to be filed, the OSM, State, or Indian tribe shall, within 6 months after the completion of the reclamation work, file a statement in the office having responsibility under applicable law for recording judgments and placing liens against land. Such statement shall consist of notarized copies of the appraisals obtained under § 882.12 and may include an account of moneys expended for the reclamation work. The amount reported to be the increase in value of the property shall constitute the lien to be recorded in compliance with existing Federal, State or Indian tribal laws: *Provided, however,* That prior to the time of the actual filing of the proposed lien, the landowner shall be notified of the amount of the proposed lien and shall be allowed a reasonable time to prepay that amount instead of allowing the lien to be filed against the property involved.

(c) Within 60 days after the lien is filed the landowner may petition under local law to determine the increase in market value of the land as a result of reclamation work. Any aggrieved party may appeal in the manner provided by local law.

§ 882.14 Satisfaction of liens.

(a) A lien placed on private property shall be satisfied, to the extent of the value of the consideration received, at the time of transfer of ownership. Any unsatisfied portion shall remain as a lien on the property.

(b) The OSM, State, or Indian tribe which files a lien on private property shall maintain or renew it from time to time as may be required under State or local law.

(c) Moneys derived from the satisfaction of liens established under this part shall be deposited in the appropriate abandoned mine reclamation fund account.

PART 884—STATE RECLAMATION PLANS

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AUTHORITY: Pub. L. 95-87; 30 U.S.C. 1201 *et seq.*

SOURCE: 47 FR 28600, June 30, 1982, unless otherwise noted.

§ 884.1 Scope.

This part establishes the procedures and requirements for the preparation, submission and approval of State reclamation plans.

§ 884.11 State eligibility.

A State is eligible to submit a State reclamation plan if it has eligible lands or water as defined in § 870.5 within its boundaries. A State is eligible for a State reclamation plan to be approved by the Director if it has an approved State regulatory program under section 503 of the Act and meets the other requirements of this chapter and the Act.

§ 884.13 Content of proposed State reclamation plan.

Each proposed State reclamation plan shall be submitted to the Director in writing and shall include the following information:

(a) A designation by the Governor of the State of the agency authorized to administer the State reclamation program and to receive and administer grants under part 886 of this chapter.

(b) A legal opinion from the State Attorney General on the chief legal officer of the State agency that the designated agency has the authority under State law to conduct the program in accordance with the requirements of Title IV of the Act.

(c) A description of the policies and procedures to be followed by the designated agency in conducting the reclamation program, including—

(1) The purposes of the State reclamation program;

(2) The specific criteria, consistent with section 403 of the Act for ranking and identifying projects to be funded;

(3) The coordination of reclamation work among the State reclamation program, the Rural Abandoned Mine Program administered by the Soil Conservation Service, the reclamation programs of any Indian tribes located

within the States, and OSM's reclamation programs; and

(4) Policies and procedures regarding land acquisition, management and disposal under 30 CFR part 879;

(5) Policies and procedures regarding reclamation on private land under 30 CFR part 882;

(6) Policies and procedures regarding rights of entry under 30 CFR part 877; and

(7) Public participation and involvement in the preparation of the State reclamation plan and in the State reclamation program.

(d) A description of the administrative and management structure to be used in conducting the reclamation program, including—

(1) The organization of the designated agency and its relationship to other State organizations or officials that will participate in or augment the agency's reclamation capacity;

(2) The personnel staffing policies which will govern the assignment of personnel to the State reclamation program;

(3) The purchasing and procurement systems to be used by the agency. Such systems shall meet the requirements of Office of Management and Budget Circular A-102, Attachment 0; and

(4) The accounting system to be used by the agency, including specific procedures for the operation of the State Abandoned Mine Reclamation Fund.

(e) A general description, derived from available data, of the reclamation activities to be conducted under the State reclamation plan, including the known or suspected eligible lands and waters within the State which require reclamation, including—

(1) A map showing the general location or known or suspected eligible lands and waters;

(2) A description of the problems occurring on these lands and waters; and

(3) How the plan proposes to address each of the problems occurring on these lands and waters.

(f) A general description, derived from available data, of the conditions prevailing in the different geographic areas of the State where reclamation is planned, including—

(1) The economic base;

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- (2) Significant esthetic, historic or cultural, and recreational values; and
- (3) Endangered and threatened plant, fish, and wildlife and their habitat.

§ 884.14 State reclamation plan approval.

(a) The Director shall act upon a State reclamation plan within 90 days after submittal. A State reclamation plan shall not be approved until the Director has—

(1) Held a public hearing on the plan within the State which submitted it, or made a finding that the State provided adequate notice and opportunity for public comment in the development of the plan;

(2) Solicited and considered the views of other Federal agencies having an interest in plan;

(3) Determined that the State has the legal authority, policies, and administrative structure necessary to carry out the proposed plan;

(4) Determined that the proposed plan meets all the requirements of this subchapter;

(5) Determined that the State has an approved State regulatory program; and

(6) Determined that the proposed plan is in compliance with all applicable State and Federal laws and regulations.

(b) If the Director disapproves a proposed State reclamation plan, the Director shall advise the State in writing of the reasons for disapproval. The State may submit a revised proposed State reclamation plan at any time under the procedures of this section.

§ 884.15 State reclamation plan amendments.

(a) A State may, at any time, submit to the Director a proposed amendment or revision to its approved reclamation plan. If the amendment or revision changes the objectives, scope or major policies followed by the State in the conduct of its reclamation program, the Director shall follow the procedures set out in § 884.14 in approving or disapproving an amendment or revision of a State reclamation plan.

(b) The Director shall promptly notify the State of all changes in the Act, the Secretary's regulations or other

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circumstances which may require an amendment to the State reclamation plan.

(c) The State shall promptly notify OSM of any conditions or events that prevent or impede it from administering its State reclamation program in accordance with its approved State reclamation plan.

(d) State reclamation plan amendments may be required by the Director when—

(1) Changes in the Act or regulations of this chapter result in the approved State reclamation plan no longer meeting the requirements of the Act or this chapter; or

(2) The State is not conducting its State reclamation program in accordance with the approved State reclamation plan.

(e) If the Director determines that a State reclamation plan amendment is required, the Director, after consultation with the State, shall establish a reasonable timetable which is consistent with established administrative or legislative procedures in the State for submitting an amendment to the reclamation plan.

(f) Failure of a State to submit an amendment within the timetable established under paragraph (e) of this section or to make reasonable or diligent efforts in that regard may result in either the suspension of the reclamation plan under § 884.16, reduction, suspension or termination of existing AML grants under § 886.18, or the withdrawal from consideration for approval of all grant applications submitted under § 886.15.

[51 FR 9444, Mar. 19, 1986]

§ 884.16 Suspension of plan.

(a) The Director may suspend a State reclamation plan in whole or in part, if he determines that—

(1) Approval of the State regulatory program has been withdrawn in whole or in part;

(2) The State is not conducting the State reclamation program in accordance with its approved State reclamation plan; or

(3) The State has not submitted a reclamation plan amendment within the time specified under § 884.15.

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(b) If the Director determines that the plan should be suspended, the Director shall notify the State by mail, return receipt requested, of the proposed action. The notice of proposed suspension shall state the reasons for the proposed action. Within 30 days the State must show cause why such action should not be taken. The Director shall afford the State an opportunity for consultation, including a hearing if requested by the State and performance of remedial action prior to the notice of suspension.

(c) The Director shall notify the State of his decision in writing. The decision of the Director shall be final.

(d) The Director shall lift the suspension if he determines that the deficiencies that led to suspension have been corrected.

[47 FR 28600, June 30, 1982, as amended at 51 FR 9444, Mar. 19, 1986]

§ 884.17 Impact assistance.

(a) The State reclamation plan may provide for construction of specific public facilities in communities impacted by coal development. This form of assistance is available when the Governor of the State has certified, and the Director has concurred that—

(1) All reclamation with respect to past coal mining and with respect to the mining of other minerals and materials has been accomplished;

(2) The specific public facilities are required as a result of coal development; and

(3) Impact funds which may be available under the Federal Mineral Leasing Act of 1920, as amended, or the Act of October 20, 1978, Public Law 94-565 (90 Stat. 2662) are inadequate for such construction.

(b) Grant applications for impact assistance may be submitted in accordance with § 886.13 of this chapter.

PART 886—STATE AND TRIBAL RECLAMATION GRANTS

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886.25 Special Indian lands procedures.

AUTHORITY: 30 U.S.C. 1201 *et seq.*, as amended.

SOURCE: 47 FR 28601, June 30, 1982, unless otherwise noted.

§ 886.1 Scope.

This part sets forth procedures for grants to States/Indian tribes having an approved plan for the reclamation of eligible lands and water and other activities necessary to carry out the plan as approved. OSM's "Final Guidelines for Reclamation Programs and Projects" (45 FR 14810-14819, March 6, 1980) should be used as applicable.

[60 FR 9981, Feb. 22, 1995]

§ 886.3 Authority.

The Director is authorized to approve or disapprove applications for grants under this part if the total amount of the grants does not exceed the moneys appropriated by the Congress. Such moneys are distributed annually to the States/Indian tribes.

[60 FR 9981, Feb. 22, 1995]

§ 886.10 Information collection.

The collections of information contained in 30 CFR part 886 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029-0059. The information will be collected to meet the requirements of Section 405 of the Act, which allows the Secretary to grant funds to States/Indian tribes pursuant to Section 402(g) and which are necessary to implement the State/Indian tribe reclamation program. This information will be used by the OSM to ensure that the State/Indian tribe complies with the Grants Management Common Rule (43 CFR part 12, subpart C) and sound principles